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21

Craig J. Wilson, Chief
Water Quality Assessment Unit
Division of Water Quality
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100
FAX: (916) 341-5550

RE: Comments on Proposed Revision to Federal Clean Water Act Section 303(d) List and Possible Listing of the Napa River as Water Quality Limited due to Mercury Pollution

Dear Mr. Wilson:

We appreciate the opportunity to comment on the State Water Resources Control Board's proposed revisions to the section 303(d) list of water quality limited segments for California. Our staff received notice of State Water Board's workshops on this matter and has reviewed the draft Staff Reports (*Supporting Fact Sheets: San Francisco Bay Region (2), Recommendations to place waters and pollutants on the 303(d) list, September 2005*) compiled to support various listing recommendations statewide. Our staff has further evaluated the referenced data, or "lines of evidence," used to assess the level of impairment and support the State Water Board's decision whether to list or not list various water segments. It is our understanding that the State Water Board is presently seeking public comment on the recommended revisions and will formally consider adoption of a revised 303(d) list at a future hearing.

Napa County is well aware of the health and function of the Napa River and both surprised and concerned that the river may exceed the State's water quality standards for mercury tissue contamination. Close examination of the original data used in support of the proposed listing has raised our concern, and prompted us to question the Board's application of the State Water Board and the Regional Water Quality Control Board's listing policy and compliance with the federal Clean Water Act.

FOR THE 303(d) listing of the Napa River for Hg
(The documentation presented has not identified whether the presence of mercury in the Napa River is or has originated from a controllable source.) It is well known that naturally occurring background levels of mercury are associated with areas containing thermal activity (i.e., Calistoga thermal area), as well as atmospheric deposition. Listing a water segment as impaired due to an uncontrollable water quality factor, which naturally exists in the native background, would make attainment of higher standards impossible and infeasible for both Napa County and the State. More study and research should be conducted to identify mercury sources in the river basin.)

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The supporting documentation names Commercial and Sport Fishing (CM) as a beneficial use of the Napa River. The proposed listing is aimed to protect that beneficial use. The Napa River is largely closed

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to sport fishing above the Trancas St. Bridge (the city of Napa) due to strict State fishing regulations, governing fishing equipment and restricting use based upon season and minimum flow requirements. There is little to no commercial fishing in the reaches where the tissue samples were collected. Additionally, the fish species that were sampled, bluegill and brown bullhead (a non-endemic warm water pond fish), are not usually consumed nor preferred by commercial or sport fishermen in the area.

Age, statistical relevancy and representative samples used to characterize the level and magnitude of the proposed impairment are questionable. The data used to support the proposed listing is marginal and minimally meets the State Board's evaluation guidelines. (Over the past twenty seven years of sampling, two samples, taken eight and ten years ago, barely exceeded the impairment threshold (by 0.06 and 0.02 ug/g). Further, the data referenced is mixed with both single species and composite samples with no reference given to the sample distribution, variance and total sample population used in the analysis) The relative numerical significance of fish tissue samples does not appear to be discussed nor considered in the State Water Board's Staff Report or their recommendation to list the Napa River as impaired. More significant descriptive sampling is warranted of comparative native species to accurately assess the assumed impairment.

The Napa River is a valuable asset to our community. The quality of the river's water and the health of those who recreate in and around it are of great concern to us. Unfortunately, information and data used by the State Water Board to assess the river's beneficial use attainment is not sufficient to fully assess if there is mercury impairment, the extent of that impairment, and whether or not the source of the contaminant is controllable or uncontrollable. Listing of the Napa River based upon the limited evidence presented would lead to local distrust and hindrance of the State Water Board's implementation of its directive under the Clean Water Act. Additional study of this matter is required to ensure continued local collaboration and conviction in working towards warranted and effective solutions.

We would greatly appreciate your careful consideration of our comments and hope they have conveyed our keen interest and concerns in this matter. If you have any questions regarding these comments, please do not hesitate to contact Patrick Lowe (707) 259-5937 or Jeff Sharp (707) 259-5936 on our staff.

Very truly yours,



Diane Dillon
Chair, Napa County Board of Supervisors

pc: Nancy Watt, County Executive Officer
Jill Pahl, Acting Director of Environmental Management
Bob Peterson, Director of Public Works
Thomas Murnley, Chief of TMDL and Planning Division, S.F. Bay RWQCB